HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 1728 (S/S) 2005

Harish Chandra Karnatak
S/o Late Ram Chandra Karnatak,
R/o Ram Say Road, Tallital,
Nainital. ------ Petitioner.

Vs.

1. Director, Local Bodies, Uttaranchal Dehradun,
2. State of Uttaranchal, through Secretary,
   Nagar Vikas Vibhag, Uttaranchal Shasan, Dehradun,
3. Executive Officer, Nagar Palika Parishad, Nainital,
4. Principal Kundan Lal Sah Trust,
   Nagar Palika Girls Inter College,
   Ashdale, Sukhatal, Nainital. ----- Respondents.

Sri B.S. Negi, learned counsel for the petitioner,
Learned Standing Counsel for respondent no. 1 & 2.
Sri D.S. Patni, learned counsel for respondent no. 3 & 4.

Hon'ble M.M. Ghildiyal, J.

Heard Sri B.S. Negi, learned counsel for the petitioner, learned Standing Counsel for the State/respondent no. 1 & 2 and Sri D.S. Patni, Adv. who accepts notices for respondent nos. 3 & 4.

By means of this writ petition, the petitioner has prayed to issue a writ, order or direction in the nature of mandamus commanding the respondents to consider the claim of the petitioner to appoint him on Class IV post under the Dying in Harness Rules 1974.

Submission of the petitioner is that the petitioner's mother (Smt. Bhagwati Karnatak) was working with the respondent no. 4 as 'Vidyalaya Sevika' and she died on 28.06.2003 during her service period. The Provisions of Dying in Harness Rules are applicable in the establishment of the respondents, consequently the petitioner, being the only legal

heir of Smt. Bhagwati Karnatak, moved an application on 23.10.2003 before the respondents, alongwith all necessary documents with the prayer that he may be provided appointment on Class IV post.

Again on 29.11.2003 another application was moved by the petitioner, but neither the respondents paid heed towards it nor any action has been taken by the respondent no. 4 so far for providing appointment to the petitioner on Class IV post. Thus, the petitioner was compelled to file the present writ petition.

During the course of argument, counsel for the petitioner confined his prayer to the extent that the respondent no. 3 may be directed to take decision on the representation of the petitioner at an earliest.

In the circumstances of the case, I think it just and proper to direct the respondent no. 3 to take final decision on the representation of the petitioner within the period prescribed by the Court.

Accordingly, the respondent no. 3 i.e. the Executive Officer, Nagar Palika parishad, Nainital is directed to take final decision on the representation of the petitioner dated 06.07.2005 within four weeks from the date of production of a certified copy of this order.

With this direction, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

November 24, 2005:
NCM: